

THE STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE
O R D E R

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51, the Supreme Court of New Hampshire adopts the following amendments to court rules.

MINIMUM CONTINUING LEGAL EDUCATION RULES

1. Amendments to Supreme Court Rules 53 through 53.8 as set forth in Appendix A.

Note: To assist the reader in identifying the changes that are being made to existing rules, the appendix contains two versions of the amended rules. The first version, entitled "Unofficial Annotated Version," highlights the amendments to the rules by placing new material both in **[brackets and in bold-face type]**, and by ~~striking out~~ material that has been deleted from the rules. The second version, entitled "Official Version," sets forth the official version of the newly amended rules without annotations.

These amendments shall take effect on July 1, 2006.

Broderick, C.J., and Dalianis, Duggan, Galway and Hicks, JJ., concurred in the adoption of these amendments; Dalianis and Duggan, JJ., however, would also amend Rule 53.3 to delete the requirement that a minimum of fifty percent of the NHMCLE requirement must be met by attending live presentations.

April 24, 2006

ATTEST: _____
Eileen Fox, Clerk of Court
Supreme Court of New Hampshire

APPENDIX A

Amend Supreme Court Rules 53 to 53.8 as follows:

Unofficial Annotated Version

RULE 53. NEW HAMPSHIRE MINIMUM CONTINUING LEGAL EDUCATION REQUIREMENT

RULE 53.1 -- NHMCLE REQUIREMENT

A. [Purpose. Continuing legal education improves the administration of justice and benefits the public interest. Regular participation in continuing legal education programs strengthens the professional skills of practicing lawyers, affords them periodic opportunities for professional self-evaluation and enhances the quality of legal services rendered to the public. This Rule requires active members of the New Hampshire Bar to participate in additional legal study throughout their careers.]

~~A. [B].~~ *Number of Hours Required*

[1. In General --] Every person covered by this rule shall complete twelve (12) hours of continuing legal education in each reporting year. At least two (2) hours of such continuing legal education shall be in the area of legal ethics, professionalism or the prevention of malpractice, substance abuse or attorney-client disputes.

[2. Return to Active Status -- Lawyers who are suspended or have selected inactive membership status with the New Hampshire Bar for more than two (2) consecutive reporting years are required to complete six (6) additional CLE credits upon returning to active status. Lawyers may complete the additional credits during the reporting year in which they return to active status or in the reporting year immediately preceding. Lawyers shall report completion of these credits by such method as the NHMCLE Board shall prescribe.]

~~B. [C.]~~ *Reporting Year --* The reporting year shall be the period from July 1 ~~through~~ **[to]** June 30.

~~C.~~ **[D.] Carry Over of Excess Hours** -- If a lawyer has completed more than twelve (12) hours of continuing legal education in a reporting year commencing after the effective date of this rule, the excess hours may be used to fulfill the requirement of Rule ~~53.1(A)~~ **[53.1(B)]** for the reporting year next following, but may not be used to fulfill the requirement in any other reporting year.

RULE 53.2 -- LAWYERS SUBJECT TO REQUIREMENT

A. *Application of Rule* -- Except as provided by Rule 53.2(B), all lawyers admitted to practice law in the State of New Hampshire ~~shall~~ **[must]** fulfill the requirements of Rule ~~53.1(A)~~ **[53.1(B)(1) and, as applicable, 53.1(B)(2).]**

B. *Exemptions From Rule* -- Rule ~~53.1(A)~~ **[53.1(B)]** and, except as provided below, Rule 53.6 shall not apply to:

1. Lawyers admitted to practice during the reporting year, except when nine months or more remain in the reporting year. Lawyers admitted with nine (9) months or more remaining in the reporting year are subject to the requirements of Rule ~~53.1(A)~~ **[53.1(B)]**.

2. Lawyers on active duty for the United States Armed Forces stationed outside the State of New Hampshire for more than three (3) months of the reporting year. These lawyers must file a certificate of compliance pursuant to Rule 53.6 for each reporting year for which the lawyer is so exempted.

3. Lawyers whose status is inactive for more than three (3) months in a reporting year.

4. State and Federal full-time judges, judges retired from a full-time judgeship, full-time magistrates, full-time marital masters, the state reporter appointed pursuant to RSA 505:1, and full-time clerks and deputy clerks of court, provided however they are not engaged in the practice of law.

5. Lawyers who are elected State or Federal officials, provided however they are not engaged in the practice of law; and provided that such lawyers must nonetheless file a certificate of compliance pursuant to Rule 53.6 for each reporting year for which the lawyer is so exempted.

6. Lawyers who are exempted from Rule 53.2(A), in whole or in part, by the NHMCLE Board, upon petition, for compelling reasons. Such reasons may include, but are not limited to, physical or other disability

~~or service as an elected official which prevents compliance with this rule during the period of such disability or service. Lawyers so exempted must nonetheless file a certificate of compliance pursuant to Rule 53.6 for each reporting year for which the lawyer is so exempted.~~

RULE 53.3 -- ACTIVITIES QUALIFYING FOR NHMCLE CREDIT

A. *Methods of Complying With Rule* -- The NHMCLE requirement may be met by attending live presentations of approved courses ~~as a student or by completing~~ **[or]** any other continuing legal education activity approved for credit by the NHMCLE Board, subject to the following requirements:

1. Attendance at programs presented by means of audio or videotape, motion picture, simultaneous broadcast or other such **[comparable]** systems or devices will qualify for NHMCLE credit as attendance at a live presentation of an approved course if there is an opportunity to ask questions of the course faculty or, if the faculty is not available either in person or via telephone, a qualified commentator is available to offer comment and answer questions directly or in writing.

2. Teaching, in-office continuing legal education activities, self-study, publications and exposure to audio or video tapes of approved courses which is not deemed equivalent to attendance at a live course presentation may also qualify for NHMCLE credit if these activities meet the conditions set forth in this rule.

3. A minimum of fifty percent (50%) of the NHMCLE requirement must be met by attending live presentations of approved courses (other than in-office courses) as a student.

4. Attendance by part-time judges at programs approved by the Supreme Court pursuant to Supreme Court Rule 45 shall qualify for NHMCLE credit.

B. *Credit for Teaching* -- NHMCLE credit shall be granted for teaching participation in approved courses (including in-office courses, as provided in paragraph C of this rule) at the rate of three (3) hours of NHMCLE credit for each hour of actual classroom instruction time.

C. *Requirements for In-Office Courses* -- NHMCLE credit shall be granted for attendance at approved courses offered by one or more law firms, corporate legal departments or government agencies primarily for the education of their members. The standards for approval of such in-office courses shall be as prescribed in Rule 53.5, except that the courses need not be open to all lawyers or to the public. In addition, a minimum

of three (3) lawyers, including the instructor, must attend for the course to qualify for NHCLE credit. For course attendance to qualify for NHCLE credit, the sponsor or sponsors of the course, or any attendee desiring credit, must apply for course approval in advance or within thirty (30) days after the conclusion of the course, in the manner prescribed in Rule 53.5.

D. Requirements for Audio/Video Courses -- NHCLE credit shall be granted for exposure to audio or video tapes of approved courses which does not qualify as attendance at a live presentation, provided that (1) exposure to the course occurs in a setting conducive to intellectual concentration and effective study, (2) written course materials are available (at the time of exposure) for permanent retention by the student upon completion of the course, and (3) the course was not produced more than three (3) years prior to the date of exposure.

E. Requirements for Self-Study Courses -- NHCLE credit shall be granted for self-study activities which:

1. Are sponsored by a sponsor accredited pursuant to Rule 53.4 or are part of a structured course of study approved pursuant to Rule 53.5.
2. Include written course materials which are available for permanent retention by the student upon completion of the course.
3. Are pursued in a setting conducive to intellectual concentration and effective study.

F. Application for Approval of Self-Study and Taped Courses -- For any self-study or taped program to qualify for NHCLE credit, the sponsor of the course or the student in question must apply for course approval in advance or within thirty (30) days after the conclusion of the course, in the manner prescribed in Rule 53.5.

G. Credit for Publications -- NHCLE credit shall be granted to principal authors of books, law review and journal articles and similar publications treating legal or law-related topics in a scholarly or practical manner and directed primarily to an audience of lawyers, judges and legal assistants. Such credit shall be granted in the reporting year in which publication first occurs, at the rate of one (1) hour of NHCLE credit for each one thousand five hundred (1,500) words published. Lawyers desiring NHCLE credit for such publications shall submit a copy of the same to the NHCLE Board upon request, and shall retain a copy for a minimum of two (2) years after the close of the reporting year in question.

RULE 53.4 -- SPONSOR APPROVAL

A. *Designation as Approved or Accredited Sponsor* -- Any person, firm, organization or other entity may apply to the NHMCLE Board for designation as an approved or accredited sponsor of NHMCLE courses or activities. Courses offered by an approved or accredited sponsor shall be automatically approved for NHMCLE credit provided the sponsor states that the course meets the standards set out in Rule 53.5 for individual course approval.

~~B. *Automatic Approval of Courses by Certain Sponsors* -- Courses offered by an accredited provider or approved by the NHMCLE Board, the corresponding body of another state or Canadian province, by a national CLE accrediting body of the United States or Canada or any American Bar Association approved law school will be approved automatically for credit provided the sponsor meets the standards set forth in Rule 53.5 for individual course approval.~~

C. [B.] *Promulgation of Sponsor Standards* -- The NHMCLE Board may promulgate appropriate regulations establishing standards for approval of sponsors of NHMCLE courses or activities. The NHMCLE Board shall have the authority to audit and review programs and may revoke the approval of a sponsor which fails to comply with this rule or with Board regulations. The NHMCLE Board shall have the authority to impose reasonable fees upon course sponsors for the support of its operations.

~~D. [C.]~~ *Minimum Requirements for Sponsor Approval or Accreditation* -- Without limiting the foregoing, in order to obtain approval or accreditation, sponsors of NHMCLE courses or activities must comply with the following minimum requirements:

~~3. [1.]~~ The sponsor must provide courses consistent with the standards for individual course approvals as set forth in Rule 53.5

[2. The sponsor must provide lawyers who seek credit in New Hampshire with approved attendance certificates for their records and also report their attendance to the NHMCLE Board in such form as the Board shall prescribe within 30 days of the program.]

~~2. [3.]~~ The sponsor must maintain ~~and have available, upon request of~~ **[and provide in such form as]** the NHMCLE Board **[determines]**, information concerning each course, including ~~registration lists,~~ course brochures, description of the method or manner of

presentation of the course materials, and a set of course materials **[within 30 days of the program]**.

~~1-~~ **[4.]** The sponsor must develop and implement methods to evaluate its course offerings to determine their effectiveness and, upon request from the NHMCLE Board, provide course evaluation by attendees.

~~4-~~ **[5.]** The sponsor must make the courses reasonably available to all New Hampshire lawyers, with the exception of in-office courses described in Rule 53.3(C) and courses offered by professional organizations primarily or exclusively for the education of their own members, or primarily or exclusively for lawyers employed by state, federal or local governments; and provided that the sponsor may impose reasonable prerequisites and limitations on course size, as provided in Rule 53.5.

~~5-~~ **[6.]** The sponsor must agree to pay the administrative or sponsor fees established by the NHMCLE Board.

~~6-~~ **[7.]** The sponsor must submit to all reasonable requests and abide by all regulations hereafter promulgated by the NHMCLE Board.

RULE 53.5 -- STANDARDS FOR INDIVIDUAL COURSE OR ACTIVITY APPROVAL

[A.] To be approved for NHMCLE credit, continuing legal education courses or activities, whether offered by approved or non-approved sponsors, shall meet the following standards. The NHMCLE Board may grant credit for such courses or activities upon written application of a non-approved sponsor or a student.

1. The course shall be of intellectual or practical content and, where possible or appropriate, ~~include a component addressing professional responsibility issues of the sort described in Rule 53.1(A).~~ **[address professionalism issues, including professional conduct, prevention of malpractice, law practice management or attorney-client relations].**

2. The course shall contribute directly to lawyers' professional competence or skills or to their education with respect to professional or ethical obligations.

3. Course leaders or lecturers shall have the necessary practical or academic skills to conduct the course effectively.

4. Each attendee shall be provided with written course materials of a quality and quantity which indicates that adequate time has been devoted to their preparation, which will be of value to the registrants in the course of their practice and which may be retained permanently by them upon completion of the course.

5. The course shall be presented in a setting conducive to a good educational experience.

6. The course shall be open to any lawyers thought to be interested in the subject matter, with the exception of in-office courses described in Rule 53.3(C) and courses offered by professional organizations primarily or exclusively for the education of their members, or primarily or exclusively for lawyers employed by federal, state local government; provided that the course sponsor may impose reasonable limitations upon course enrollment and may require reasonable prerequisites in terms of academic and/or ~~practical~~ **[practical]** experience for course attendance.

7. The sponsor shall as appropriate encourage the active participation by lawyers as planners, coordinators, authors, panelists and lecturers.

8. The sponsor or the student shall submit such information concerning the course as the NHMCLE Board may reasonably request within thirty (30) days following such request, such as ~~registration lists~~ **[attendance lists of those lawyers seeking credit in New Hampshire]**, course brochures, description of the method or manner of presentation of the course materials and a set of course materials and course evaluations.

9. With respect to approval or accreditation of self-study programs eligible for NHMCLE credit pursuant to Rule 53.3(E), in addition to the requirements therein, and the requirements prescribed above, the sponsor of such a program must agree to maintain and, upon request, supply the NHMCLE Board with a record of the lawyers obtaining such a program from it. In awarding credit for such activities, the NHMCLE Board may consider the following factors: (a) the nature of the structured, individualized activities comprising the course of study, (b) the time normally required to complete those activities, and (c) the extent to which the lawyers educational effort in this course is evaluated by the sponsor.

RULE 53.6 -- REPORTING AND CERTIFICATION FOR NHMCLE CREDIT

On or before ~~August~~ **[October]** 1 of each year, each lawyer admitted to practice in the State and not exempt under Rule 53.2(B)(1), ~~(2), or (3),~~ **[(3), (4) or (6)]** shall file a certificate of compliance with the NHMCLE Board, in such form as the board shall prescribe, concerning either his or her completion of accredited legal education during the previous reporting year, or the basis for his or her claim of exemption under Rule 53.2(B)(4) **[(2)]** or (5). Each such lawyer shall maintain such records or certificates of attendance as may be required to substantiate his or her compliance or exemption for a period of two (2) years following the close of a reporting year. **[The NHMCLE Board shall assess each lawyer admitted to practice who is not exempt under Rule 53.2(B) an annual fee, in an amount approved by the Supreme Court, to support the NHMCLE Board's operations.]**

Lawyers exempt under Rule 53.2(B) who wish to claim NHMCLE credit for activities completed during a reporting year for which such exemption applies (e.g., for purposes of carrying over such credits pursuant to Rule 53.1~~(C)~~ **[(D)]**), may do so by either (1) filing a certificate of compliance for the reporting year in which the activity was completed, or (2) reporting such activities on the certificate of compliance filed for the following reporting year if no exemption is then available.

RULE 53.7 -- SANCTIONS AND APPEAL

A. *Delinquency* --

1. *Notice of Delinquency* -- Following the annual reporting date, the NHMCLE Board shall send a notice of delinquency to each lawyer not in compliance with this rule. To the extent administratively possible, the notice shall be sent within thirty (30) days of the annual reporting date. Within sixty (60) days of the date appearing on the notice of delinquency, the lawyer shall take steps necessary to comply with this rule for the prior reporting period.

2. *Final Demand for Compliance* -- After this sixty (60) day period, if the lawyer fails to report CLE credits sufficient to permit retroactive compliance with this rule, or fails to certify that the lawyer is exempt from the requirements, the NHMCLE Board shall notify the lawyer by mail of his or her continued noncompliance and make final demand for compliance.

3. *Sanctions* -- If the lawyer does not meet compliance requirements within thirty (30) days of a final demand for compliance,

beginning on that date, the lawyer shall be assessed a delinquency fee of one hundred dollars (\$100) for each month or fraction thereof in which noncompliance continues. However, the delinquency fee for each reporting period shall not exceed three hundred dollars (\$300). If the lawyer has not complied with the rule within three (3) months of the final demand, and/or has not paid any outstanding delinquency fee, the NHMCLE Board shall seek an order of the New Hampshire Supreme Court suspending the lawyer from the practice of law.

B. Reinstatement --

1. Upon correction of the delinquency and payment to the NHMCLE Board of the delinquency fee, the delinquent lawyer shall be recorded as in compliance by the NHMCLE Board. However, if the lawyer shall have been suspended due to such delinquency, the suspended lawyer must also request the NHMCLE Board to move for reinstatement to the practice of law. Within thirty (30) days of a request for reinstatement by a lawyer, the NHMCLE Board shall submit a motion to the Supreme Court for reinstatement.

2. If the request to the NHMCLE Board to move for reinstatement is filed with the NHMCLE Board more than one year after the date of the order suspending the person from the practice of law in this State, then the request shall be accompanied by evidence of continuing competence and learning in the law, and evidence of continuing moral character and fitness. The NHMCLE Board shall attach a copy of said evidence to the motion that it thereafter files with the Supreme Court for reinstatement. If the evidence of continuing competence and learning in the law, and evidence of continuing moral character and fitness, are satisfactory to the court, the court may order reinstatement upon such conditions as it deems appropriate.

If the evidence of continuing competence and learning in the law is not satisfactory to the court, the court shall refer the motion for reinstatement to the professional conduct committee for referral to a panel of the hearings committee. The hearing panel shall promptly schedule a hearing at which the attorney shall have the burden of demonstrating by a preponderance of the evidence that he or she has the competency and learning in law required for reinstatement. At the conclusion of the hearing, the hearing panel shall promptly file a report containing its findings and recommendations and transmit same, together with the record, to the professional conduct committee. The professional conduct committee shall review the report of the hearings committee panel, the record and the hearing transcript and shall file its own recommendations and findings, together with the record, with the

court. Following the submission of briefs, if necessary, and oral argument, if any, the court shall enter a final order.

If the evidence of continuing moral character and fitness is not satisfactory to the court, the court shall order the applicant to file with the committee on character and fitness and with the clerk of the supreme court the petition and questionnaire referred to in Supreme Court Rule 42(5)(e). Further proceedings shall be governed by Rule 42.

C. *False Statements* -- Should the NHMCLE Board have reasonable grounds to believe that a lawyer has knowingly misstated his or her NHMCLE activity on the Annual Certificate of Compliance With Continuing Legal Education Requirements, the board shall notify the Professional Conduct Committee **[Attorney Discipline Office]** of the New Hampshire Supreme Court forthwith.

RULE 53.8 -- NHMCLE BOARD

A. *Membership, Appointment and Terms of Board* -- The Supreme Court of the State of New Hampshire shall appoint a Minimum Continuing Legal Education Board consisting of ten (10) members as follows:

1. The President-Elect of the New Hampshire Bar Association – *ex officio*.
2. An active or retired New Hampshire Supreme Court Justice.
3. An active or retired New Hampshire Superior Court Judge, an active or retired District Court Judge, or an active or retired Probate Court Judge.
4. The Chair of the New Hampshire Bar Association Continuing Legal Education Committee – *ex officio*.
5. Nominee of the New Hampshire Bar Association President.
6. Four (4) lawyers admitted to the New Hampshire Bar Association, at least one of whom shall be a professor of law or other professional educator at the post-secondary level.
7. The Executive Director of the New Hampshire Bar Association or designee – *ex officio*.

Board members, other than *ex officio* members, shall serve a term of three (3) years or in the case of active members of the judiciary, until

they no longer are on the court from which their appointment is derived, if sooner. Nothing in this section shall prohibit an active member of the judiciary whose term expires by reason of retirement from being appointed thereafter as a retired member of the judiciary.

B. *Chair of Board* -- The Chair of the NHMCLE Board shall be designated by the Supreme Court from among the ten (10) members of the board.

C. *Other Officers* -- The NHMCLE Board shall elect a Vice Chair and Secretary from among its members.

D. *Quorum* -- A quorum of the board shall consist of five (5) members, and the act of a majority of such quorum shall constitute the lawful act of the board.

E. *Powers and Duties* -- The board shall have the following powers and duties:

1. Administer this rule **[and establish appropriate committees for that purpose]**;
2. Adopt regulations consistent with this rule and for its intended operations; and
3. Report at least annually to the New Hampshire Bar Association and the Supreme Court.

F. *Confidentiality* -- The records of the board are not confidential**[], other than those pertinent to exemptions pursuant to Rule 53.2(B)(6)]**.

Official Version

RULE 53. NEW HAMPSHIRE MINIMUM CONTINUING LEGAL EDUCATION REQUIREMENT

RULE 53.1 -- NHMCLE REQUIREMENT

A. *Purpose*. Continuing legal education improves the administration of justice and benefits the public interest. Regular participation in continuing legal education programs strengthens the professional skills of practicing lawyers, affords them periodic

opportunities for professional self-evaluation and enhances the quality of legal services rendered to the public. This Rule requires active members of the New Hampshire Bar to participate in additional legal study throughout their careers.

B. Number of Hours Required

1. *In General* -- Every person covered by this rule shall complete twelve (12) hours of continuing legal education in each reporting year. At least two (2) hours of such continuing legal education shall be in the area of legal ethics, professionalism or the prevention of malpractice, substance abuse or attorney-client disputes.

2. *Return to Active Status* -- Lawyers who are suspended or have selected inactive membership status with the New Hampshire Bar for more than two (2) consecutive reporting years are required to complete six (6) additional CLE credits upon returning to active status. Lawyers may complete the additional credits during the reporting year in which they return to active status or in the reporting year immediately preceding. Lawyers shall report completion of these credits by such method as the NHMCLE Board shall prescribe.

C. Reporting Year -- The reporting year shall be the period from July 1 to June 30.

D. Carry Over of Excess Hours -- If a lawyer has completed more than twelve (12) hours of continuing legal education in a reporting year commencing after the effective date of this rule, the excess hours may be used to fulfill the requirement of Rule 53.1(B) for the reporting year next following, but may not be used to fulfill the requirement in any other reporting year.

RULE 53.2 -- LAWYERS SUBJECT TO REQUIREMENT

A. Application of Rule -- Except as provided by Rule 53.2(B), all lawyers admitted to practice law in the State of New Hampshire must fulfill the requirements of Rule 53.1(B)(1) and, as applicable, 53.1(B)(2).

B. Exemptions From Rule -- Rule 53.1(B) and, except as provided below, Rule 53.6 shall not apply to:

1. Lawyers admitted to practice during the reporting year, except when nine months or more remain in the reporting year. Lawyers admitted with nine (9) months or more remaining in the reporting year are subject to the requirements of Rule 53.1(B).

2. Lawyers on active duty for the United States Armed Forces stationed outside the State of New Hampshire for more than three (3) months of the reporting year. These lawyers must file a certificate of compliance pursuant to Rule 53.6 for each reporting year for which the lawyer is so exempted.

3. Lawyers whose status is inactive for more than three (3) months in a reporting year.

4. State and Federal full-time judges, judges retired from a full-time judgeship, full-time magistrates, full-time marital masters, the state reporter appointed pursuant to RSA 505:1, and full-time clerks and deputy clerks of court, provided however they are not engaged in the practice of law.

5. Lawyers who are elected State or Federal officials, provided however they are not engaged in the practice of law; and provided that such lawyers must nonetheless file a certificate of compliance pursuant to Rule 53.6 for each reporting year for which the lawyer is so exempted.

6. Lawyers who are exempted from Rule 53.2(A), in whole or in part, by the NHMCLE Board, upon petition, for compelling reasons. Such reasons may include, but are not limited to, physical or other disability which prevents compliance with this rule during the period of such disability.

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A. *Methods of Complying With Rule* -- The NHMCLE requirement may be met by attending live presentations of approved courses or any other continuing legal education activity approved for credit by the NHMCLE Board, subject to the following requirements:

1. Attendance at programs presented by means of audio or videotape, motion picture, simultaneous broadcast or other such comparable systems or devices will qualify for NHMCLE credit as attendance at a live presentation of an approved course if there is an opportunity to ask questions of the course faculty or, if the faculty is not available either in person or via telephone, a qualified commentator is available to offer comment and answer questions directly or in writing.

2. Teaching, in-office continuing legal education activities, self-study, publications and exposure to audio or video tapes of approved courses which is not deemed equivalent to attendance at a live course

presentation may also qualify for NHCLE credit if these activities meet the conditions set forth in this rule.

3. A minimum of fifty percent (50%) of the NHCLE requirement must be met by attending live presentations of approved courses (other than in-office courses) as a student.

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B. *Credit for Teaching* -- NHCLE credit shall be granted for teaching participation in approved courses (including in-office courses, as provided in paragraph C of this rule) at the rate of three (3) hours of NHCLE credit for each hour of actual classroom instruction time.

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E. *Requirements for Self-Study Courses* -- NHCLE credit shall be granted for self-study activities which:

1. Are sponsored by a sponsor accredited pursuant to Rule 53.4 or are part of a structured course of study approved pursuant to Rule 53.5.

2. Include written course materials which are available for permanent retention by the student upon completion of the course.

3. Are pursued in a setting conducive to intellectual concentration and effective study.

F. *Application for Approval of Self-Study and Taped Courses* -- For any self-study or taped program to qualify for NHCLE credit, the sponsor of the course or the student in question must apply for course approval in advance or within thirty (30) days after the conclusion of the course, in the manner prescribed in Rule 53.5.

G. *Credit for Publications* -- NHCLE credit shall be granted to principal authors of books, law review and journal articles and similar publications treating legal or law-related topics in a scholarly or practical manner and directed primarily to an audience of lawyers, judges and legal assistants. Such credit shall be granted in the reporting year in which publication first occurs, at the rate of one (1) hour of NHCLE credit for each one thousand five hundred (1,500) words published. Lawyers desiring NHCLE credit for such publications shall submit a copy of the same to the NHCLE Board upon request, and shall retain a copy for a minimum of two (2) years after the close of the reporting year in question.

RULE 53.4 -- SPONSOR APPROVAL

A. *Designation as Approved or Accredited Sponsor* -- Any person, firm, organization or other entity may apply to the NHCLE Board for designation as an approved or accredited sponsor of NHCLE courses or activities. Courses offered by an approved or accredited sponsor shall be automatically approved for NHCLE credit provided the sponsor states that the course meets the standards set out in Rule 53.5 for individual course approval.

B. *Promulgation of Sponsor Standards* -- The NHCLE Board may promulgate appropriate regulations establishing standards for approval of sponsors of NHCLE courses or activities. The NHCLE Board shall have the authority to audit and review programs and may revoke the approval of a sponsor which fails to comply with this rule or with Board regulations. The NHCLE Board shall have the authority to impose reasonable fees upon course sponsors for the support of its operations.

C. Minimum Requirements for Sponsor Approval or Accreditation -- Without limiting the foregoing, in order to obtain approval or accreditation, sponsors of NHCLE courses or activities must comply with the following minimum requirements:

1. The sponsor must provide courses consistent with the standards for individual course approvals as set forth in Rule 53.5
2. The sponsor must provide lawyers who seek credit in New Hampshire with approved attendance certificates for their records and also report their attendance to the NHCLE Board in such form as the Board shall prescribe within 30 days of the program.
3. The sponsor must maintain and provide in such form as the NHCLE Board determines, information concerning each course, including course brochures, description of the method or manner of presentation of the course materials, and a set of course materials within 30 days of the program.
4. The sponsor must develop and implement methods to evaluate its course offerings to determine their effectiveness and, upon request from the NHCLE Board, provide course evaluation by attendees.
5. The sponsor must make the courses reasonably available to all New Hampshire lawyers, with the exception of in-office courses described in Rule 53.3(C) and courses offered by professional organizations primarily or exclusively for the education of their own members, or primarily or exclusively for lawyers employed by state, federal or local governments; and provided that the sponsor may impose reasonable prerequisites and limitations on course size, as provided in Rule 53.5.
6. The sponsor must agree to pay the administrative or sponsor fees established by the NHCLE Board.
7. The sponsor must submit to all reasonable requests and abide by all regulations hereafter promulgated by the NHCLE Board.

RULE 53.5 -- STANDARDS FOR INDIVIDUAL COURSE OR ACTIVITY APPROVAL

A. To be approved for NHCLE credit, continuing legal education courses or activities, whether offered by approved or non-approved sponsors, shall meet the following standards. The NHCLE Board may

grant credit for such courses or activities upon written application of a non-approved sponsor or a student.

1. The course shall be of intellectual or practical content and, where appropriate, address professionalism issues, including professional conduct, prevention of malpractice, law practice management or attorney-client relations.

2. The course shall contribute directly to lawyers' professional competence or skills or to their education with respect to professional or ethical obligations.

3. Course leaders or lecturers shall have the necessary practical or academic skills to conduct the course effectively.

4. Each attendee shall be provided with written course materials of a quality and quantity which indicates that adequate time has been devoted to their preparation, which will be of value to the registrants in the course of their practice and which may be retained permanently by them upon completion of the course.

5. The course shall be presented in a setting conducive to a good educational experience.

6. The course shall be open to any lawyers thought to be interested in the subject matter, with the exception of in-office courses described in Rule 53.3(C) and courses offered by professional organizations primarily or exclusively for the education of their members, or primarily or exclusively for lawyers employed by federal, state local government; provided that the course sponsor may impose reasonable limitations upon course enrollment and may require reasonable prerequisites in terms of academic and/or practical experience for course attendance.

7. The sponsor shall as appropriate encourage the active participation by lawyers as planners, coordinators, authors, panelists and lecturers.

8. The sponsor or the student shall submit such information concerning the course as the NHMCLE Board may reasonably request within thirty (30) days following such request, such as attendance lists of those lawyers seeking credit in New Hampshire, course brochures, description of the method or manner of presentation of the course materials and a set of course materials and course evaluations.

9. With respect to approval or accreditation of self-study programs eligible for NHCLE credit pursuant to Rule 53.3(E), in addition to the requirements therein, and the requirements prescribed above, the sponsor of such a program must agree to maintain and, upon request, supply the NHCLE Board with a record of the lawyers obtaining such a program from it. In awarding credit for such activities, the NHCLE Board may consider the following factors: (a) the nature of the structured, individualized activities comprising the course of study, (b) the time normally required to complete those activities, and (c) the extent to which the lawyers educational effort in this course is evaluated by the sponsor.

RULE 53.6 -- REPORTING AND CERTIFICATION FOR NHCLE CREDIT

On or before October 1 of each year, each lawyer admitted to practice in the State and not exempt under Rule 53.2(B)(1), (3), (4) or (6) shall file a certificate of compliance with the NHCLE Board, in such form as the board shall prescribe, concerning either his or her completion of accredited legal education during the previous reporting year, or the basis for his or her claim of exemption under Rule 53.2(B)(2) or (5). Each such lawyer shall maintain such records or certificates of attendance as may be required to substantiate his or her compliance or exemption for a period of two (2) years following the close of a reporting year. The NHCLE Board shall assess each lawyer admitted to practice who is not exempt under Rule 53.2(B) an annual fee, in an amount approved by the Supreme Court, to support the NHCLE Board's operations.

Lawyers exempt under Rule 53.2(B) who wish to claim NHCLE credit for activities completed during a reporting year for which such exemption applies (e.g., for purposes of carrying over such credits pursuant to Rule 53.1(D)), may do so by either (1) filing a certificate of compliance for the reporting year in which the activity was completed, or (2) reporting such activities on the certificate of compliance filed for the following reporting year if no exemption is then available.

RULE 53.7 -- SANCTIONS AND APPEAL

A. *Delinquency* --

1. *Notice of Delinquency* -- Following the annual reporting date, the NHCLE Board shall send a notice of delinquency to each lawyer not in compliance with this rule. To the extent administratively possible, the notice shall be sent within thirty (30) days of the annual reporting date. Within sixty (60) days of the date appearing on the notice

of delinquency, the lawyer shall take steps necessary to comply with this rule for the prior reporting period.

2. *Final Demand for Compliance* -- After this sixty (60) day period, if the lawyer fails to report CLE credits sufficient to permit retroactive compliance with this rule, or fails to certify that the lawyer is exempt from the requirements, the NHCLE Board shall notify the lawyer by mail of his or her continued noncompliance and make final demand for compliance.

3. *Sanctions* -- If the lawyer does not meet compliance requirements within thirty (30) days of a final demand for compliance, beginning on that date, the lawyer shall be assessed a delinquency fee of one hundred dollars (\$100) for each month or fraction thereof in which noncompliance continues. However, the delinquency fee for each reporting period shall not exceed three hundred dollars (\$300). If the lawyer has not complied with the rule within three (3) months of the final demand, and/or has not paid any outstanding delinquency fee, the NHCLE Board shall seek an order of the New Hampshire Supreme Court suspending the lawyer from the practice of law.

B. *Reinstatement* --

1. Upon correction of the delinquency and payment to the NHCLE Board of the delinquency fee, the delinquent lawyer shall be recorded as in compliance by the NHCLE Board. However, if the lawyer shall have been suspended due to such delinquency, the suspended lawyer must also request the NHCLE Board to move for reinstatement to the practice of law. Within thirty (30) days of a request for reinstatement by a lawyer, the NHCLE Board shall submit a motion to the Supreme Court for reinstatement.

2. If the request to the NHCLE Board to move for reinstatement is filed with the NHCLE Board more than one year after the date of the order suspending the person from the practice of law in this State, then the request shall be accompanied by evidence of continuing competence and learning in the law, and evidence of continuing moral character and fitness. The NHCLE Board shall attach a copy of said evidence to the motion that it thereafter files with the Supreme Court for reinstatement. If the evidence of continuing competence and learning in the law, and evidence of continuing moral character and fitness, are satisfactory to the court, the court may order reinstatement upon such conditions as it deems appropriate.

If the evidence of continuing competence and learning in the law is not satisfactory to the court, the court shall refer the motion for reinstatement to the professional conduct committee for referral to a panel of the hearings committee. The hearing panel shall promptly schedule a hearing at which the attorney shall have the burden of demonstrating by a preponderance of the evidence that he or she has the competency and learning in law required for reinstatement. At the conclusion of the hearing, the hearing panel shall promptly file a report containing its findings and recommendations and transmit same, together with the record, to the professional conduct committee. The professional conduct committee shall review the report of the hearings committee panel, the record and the hearing transcript and shall file its own recommendations and findings, together with the record, with the court. Following the submission of briefs, if necessary, and oral argument, if any, the court shall enter a final order.

If the evidence of continuing moral character and fitness is not satisfactory to the court, the court shall order the applicant to file with the committee on character and fitness and with the clerk of the supreme court the petition and questionnaire referred to in Supreme Court Rule 42(5)(e). Further proceedings shall be governed by Rule 42.

C. *False Statements* -- Should the NHMCLE Board have reasonable grounds to believe that a lawyer has knowingly misstated his or her NHMCLE activity on the Annual Certificate of Compliance With Continuing Legal Education Requirements, the board shall notify the Attorney Discipline Office of the New Hampshire Supreme Court forthwith.

RULE 53.8 -- NHMCLE BOARD

A. *Membership, Appointment and Terms of Board* -- The Supreme Court of the State of New Hampshire shall appoint a Minimum Continuing Legal Education Board consisting of ten (10) members as follows:

1. The President-Elect of the New Hampshire Bar Association – *ex officio*.
2. An active or retired New Hampshire Supreme Court Justice.
3. An active or retired New Hampshire Superior Court Judge, an active or retired District Court Judge, or an active or retired Probate Court Judge.

4. The Chair of the New Hampshire Bar Association Continuing Legal Education Committee – *ex officio*.

5. Nominee of the New Hampshire Bar Association President.

6. Four (4) lawyers admitted to the New Hampshire Bar Association, at least one of whom shall be a professor of law or other professional educator at the post-secondary level.

7. The Executive Director of the New Hampshire Bar Association or designee – *ex officio*.

Board members, other than *ex officio* members, shall serve a term of three (3) years or in the case of active members of the judiciary, until they no longer are on the court from which their appointment is derived, if sooner. Nothing in this section shall prohibit an active member of the judiciary whose term expires by reason of retirement from being appointed thereafter as a retired member of the judiciary.

B. *Chair of Board* -- The Chair of the NHMCLE Board shall be designated by the Supreme Court from among the ten (10) members of the board.

C. *Other Officers* -- The NHMCLE Board shall elect a Vice Chair and Secretary from among its members.

D. *Quorum* -- A quorum of the board shall consist of five (5) members, and the act of a majority of such quorum shall constitute the lawful act of the board.

E. *Powers and Duties* -- The board shall have the following powers and duties:

1. Administer this rule and establish appropriate committees for that purpose;

2. Adopt regulations consistent with this rule and for its intended operations; and

3. Report at least annually to the New Hampshire Bar Association and the Supreme Court.

F. *Confidentiality* -- The records of the board are not confidential, other than those pertinent to exemptions pursuant to Rule 53.2(B)(6).